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DATE: November 13, 2006

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CITY OF GOODYEAR

2006 NOV 16 P 4:30 CITY COUNCIL ACTION FORM

SUBJECT: Council Adopt Resolutions to the Arizona Corporation Commission, Arizona Department of Environmental Quality, and Maricopa County Environmental Services Department, to Intervene on behalf of the City of Goodyear with Litchfield Park Service Company Ongoing Odor Issues

STAFF PRESENTER: Shawn Bradford
Elizabeth Simpson

COMPANY CONTACT:

Arizona Corporation Commission

DOCKETED

NOV 16 2006

RECOMMENDATION:

DOCKETED BY

NR

Council adopt Resolutions to the Arizona Corporation Commission (ACC), Arizona Department of Environmental Quality (ADEQ), and Maricopa County Environmental Services Department (MCESD) requesting intervention on the City of Goodyear's behalf to address ongoing odor issues from the Litchfield Park Service Company's LPSCo Palm Valley Water Reclamation Facility.

COMMUNITY BENEFIT:

Residents and business owners located near the Palm Valley Water Reclamation Facility (PVWRF) on McDowell Road, west of Litchfield Road, have contacted the City regarding fugitive odors near the plant on numerous occasions. Intervention by the ACC, ADEQ, and MCESD will assist the City in addressing the ongoing odor issues and bring this problem to a close.

Fugitive odors from the PVWRF have been an ongoing nuisance that affects a large portion of the population living and working in the area around the facility. As the regulatory bodies overseeing the operation and maintenance of the PVWRF these agencies have the ability to impose penalties, deny permits, or restrict future expansion until corrective action is taken to address this problem.

DISCUSSION:

In early January 2006, LPSCo notified the City of a toxic contamination event that occurred in their biological process at the PVWRF in December, 2005. The toxic event killed a large portion of the wastewater biological organisms within the treatment system. With assistance from the City, LPSCo "re-seeded" their process by hauling 20,000 gallons of Returned Activated Sludge (RAS) from the Goodyear 157th Avenue Water Reclamation Facility. During this event LPSCo experienced elevated ammonia levels which contributed to fugitive odors escaping from the facility. Over the past several months, the City has continued to receive odor complaints from citizens located near, or driving by the PVWRF.

Background:

The PVWRF began operation in 2000. During the permitting process for the facility the City supported LPSCo's MAG 208 Amendment allowing the construction of the facility.

Among the terms and conditions of critical importance to the City were appropriate noise and odor controls. The City was assured by both LPSCo management and the equipment manufacturer that there would be full odor control in place and that the operation of the facility would not adversely impact local residents.

Water Resources Department staff have contacted and met with LPSCo's management on numerous occasions to discuss odor issues. The need to keep the local residents informed and detail the steps LPSCo is taking to address the odor complaints was agreed on. City assistance was offered to LPSCo to help identify the problem. LPSCo proposed the creation of a liaison committee to keep local residents informed, and accepted our offer to tour the facility to provide assistance. It was also noted that if continued odor complaints were received, the City would explore other avenues at our disposal to rectify the problem.

The first Community Liaison Committee meeting was held on July 6, 2006. In addition to Kris Mayes from the Arizona Corporation Commission, two business owners near the PVWRF were in attendance, along with representatives from Algonquin Water (the owners of LPSCo), SunCor Development, and the City of Goodyear. During that meeting, background on the odor issues was presented and it was agreed that meetings would be held every 2-3 months. A meeting is scheduled for November 8, 2006.

Additional Options

Staff is evaluating the following options and is exploring any additional options that may be available.

1. Use existing City Ordinances on offensive premises or public nuisances to fine LPSCo;
2. Enact a City Ordinance to increase penalties against treatment facilities that create offensive or public nuisances;
3. Request assistance from the various regulatory agencies as is provided for under the requisite permits and permitting conditions that exist for plant construction and operations:
 - a. Aquifer Protection Permit issued by the Arizona Department of Environmental Quality;
 - b. Maricopa County Environmental Services Division (MCESD) Non-title Air Quality Permit;
 - c. MCESD Approval to Construct (ATC) and Approval of Construction (AOC);
 - d. MCESD Annual Operations Permit; and,
 - e. ADEQ Reclaimed Wastewater Reuse Permit.

Existing City Code § 11-1-11 Offensive Premises states:

"It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him or her, or any cellar, privy, vault, pool, sewer or private drain therein to become nauseous, foul or offensive to the senses or prejudicial to the public health or comfort."

Pursuant to City Code § 1-8-1 (A) Penalty, the following provision can be levied against LPSCo for failure to meet the Offensive Premises Code:

“(A) Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed \$2,500 for an individual and not more than \$20,000 for an enterprise or by imprisonment for a period of not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described. The term ***ENTERPRISE*** as used in this subsection shall mean any corporation, partnership, association, labor union or other entity or any group of persons associated in part although not a legal entity.”

FISCAL IMPACT:

There is no fiscal impact to the Water Resources Department's FY 06/07 operations budget.

REVIEWED BY:

Brian Dalke – Deputy City Manager

Larry Lange – Finance Director

Roric Massey – City Attorney

Stephen Cleveland – City Manager

PREPARED BY:

Martie Polk – Preparer

Shawn Bradford – Department Head

James Nichols – Deputy City Manager

RESOLUTION NO. 06-1095

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, FOR THE PURPOSE OF SEEKING ASSISTANCE FROM THE ARIZONA CORPORATION COMMISSION TO RESOLVE ODOR PROBLEMS AT LITCHFIELD PARK SERVICE COMPANY'S PALM VALLEY WATER RECLAMATION FACILITY IN GOODYEAR, ARIZONA.

WHEREAS, Litchfield Park Service Company ("LPSCo") is a public service corporation that provides water and sewer treatment service in the vicinity of Goodyear, Arizona; and

WHEREAS, LPSCo is subject to the regulatory oversight of the Arizona Corporation Commission ("ACC") wherein utilities must obtain a Certificate of Convenience & Necessity ("CC&N") from ACC in order to serve customers; and

WHEREAS, the Arizona Corporation Commission is authorized in the State of Arizona to make investigations and inquiries as to whether utilities under its jurisdiction are fit and proper to provide services under an existing, or an application for, CC&N; and

WHEREAS, the City of Goodyear, pursuant to Article I, Section 3.B of its City Charter, shall have all powers necessary or convenient for the conduct of its municipal affairs, and for the health, safety, and general welfare of its inhabitants; and

WHEREAS, the City is aware of recurring and frequent problems with malodorous fumes emanating from LPSCo's Palm Valley Water Reclamation Facility (the "Facility"); and

WHEREAS, during a meeting to discuss an application from LPSCo pending before the ACC, the Arizona Corporation Commission Commissioner asked the City to advise the Commissioner if LPSCo failed to resolve the odor problems; and

WHEREAS, the City's efforts to resolve the odor problems continue to deny Goodyear residents and businesses full and proper enjoyment of their respective properties; and

WHEREAS, the City of Goodyear, by and through this Resolution, is advising the ACC Commissioner, as per her request, of LPSCo's failure to address the odor problems with its Facility; and

WHEREAS, this Resolution shall become effective as provided by law.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL
OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. This Resolution shall be forwarded to the Arizona Corporation
Commission for any and all consideration of the foregoing as it relates to the operation of
Litchfield Park Service Company's Palm Valley Water Reclamation Facility in
Goodyear, Arizona.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear,
Arizona, this ____ day of _____, 2006.

James M. Cavanaugh, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Dee Cockrum, City Clerk

Roric Massey, City Attorney

RESOLUTION NO. 06-1096

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, FOR THE PURPOSE OF SEEKING ASSISTANCE FROM THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY TO RESOLVE ODOR PROBLEMS AT LITCHFIELD PARK SERVICE COMPANY'S PALM VALLEY WATER RECLAMATION FACILITY IN GOODYEAR, ARIZONA.

WHEREAS, Litchfield Park Service Company ("LPSCo") is a public service corporation that provides water and sewer treatment service in the vicinity of Goodyear, Arizona; and

WHEREAS, LPSCo is subject to the regulatory oversight of the Arizona Department of Environmental Quality ("ADEQ") wherein utilities must comply with the State of Arizona's laws in order to serve customers; and

WHEREAS, ADEQ is authorized in the State of Arizona to make investigations and inquiries, and to issue enforcement actions as to whether utilities under its jurisdiction are fit and proper to provide services in the State of Arizona; and

WHEREAS, the City of Goodyear, pursuant to Article I, Section 3.B of its City Charter, shall have all powers necessary or convenient for the conduct of its municipal affairs, and for the health, safety, and general welfare of its inhabitants; and

WHEREAS, the City is aware of recurring and frequent problems with malodorous fumes emanating from LPSCo's Palm Valley Water Reclamation Facility (the "Facility"); and

WHEREAS, the City's efforts to resolve the odor problems continue to deny Goodyear residents and businesses full and proper enjoyment of their respective properties; and

WHEREAS, the City of Goodyear, by and through this Resolution, is advising ADEQ of LPSCo's failure to address the odor problems with its Facility; and

WHEREAS, this Resolution shall become effective as provided by law.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. This Resolution shall be forwarded to the Arizona Department of Environmental Quality for any and all consideration of the foregoing as it relates to the operation of Litchfield Park Service Company's Palm Valley Water Reclamation Facility in Goodyear, Arizona.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear,
Arizona, this ____ day of _____, 2006.

James M. Cavanaugh, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Dee Cockrum, City Clerk

Roric Massey, City Attorney

RESOLUTION NO. 06-1097

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, FOR THE PURPOSE OF SEEKING ASSISTANCE FROM THE MARICOPA COUNTY OF ENVIRONMENTAL SERVICES DEPARTMENT TO RESOLVE ODOR PROBLEMS AT LITCHFIELD PARK SERVICE COMPANY'S PALM VALLEY WATER RECLAMATION FACILITY IN GOODYEAR, ARIZONA.

WHEREAS, Litchfield Park Service Company ("LPSCo") is a public service corporation that provides water and sewer treatment service in the vicinity of Goodyear, Arizona; and

WHEREAS, LPSCo is subject to the regulatory oversight of the Maricopa County Environmental Services Department ("MCESD") wherein utilities must comply with the State of Arizona's laws in order to serve customers; and

WHEREAS, MCESD is authorized in the State of Arizona to make investigations and inquiries as to whether utilities under its jurisdiction are fit and proper to provide services in the State of Arizona; and

WHEREAS, the City of Goodyear, pursuant to Article I, Section 3.B of its City Charter, shall have all powers necessary or convenient for the conduct of its municipal affairs, and for the health, safety, and general welfare of its inhabitants; and

WHEREAS, the City is aware of recurring and frequent problems with malodorous fumes emanating from LPSCo's Palm Valley Water Reclamation Facility (the "Facility"); and

WHEREAS, the City's efforts to resolve the odor problems continue to deny Goodyear residents and businesses full and proper enjoyment of their respective properties; and

WHEREAS, the City of Goodyear, by and through this Resolution, is advising MCESD of LPSCo's failure to address the odor problems with its Facility; and

WHEREAS, this Resolution shall become effective as provided by law.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. This Resolution shall be forwarded to the Maricopa County Environmental Services Department for any and all consideration of the foregoing as it relates to the operation of Litchfield Park Service Company's Palm Valley Water Reclamation Facility in Goodyear, Arizona.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear,
Arizona, this ____ day of _____, 2006.

James M. Cavanaugh, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Dee Cockrum, City Clerk

Roric Massey, City Attorney